

## REMARKS

The claims remaining in the present application are Claims 1-26 and 28-35. Claims 1, 20, and 24 have been amended. Claims 27-28 have been cancelled, without prejudice. Claims 32-35 have been added. No new matter has been added as a result of these amendments.

## CLAIM REJECTIONS

### 35 U.S.C. §103

Claims 1-10, 20, 24, and 27-31 are rejected under 35 U.S.C. §103 as being unpatentable over Nakashima et al. U.S. Patent No. 6,470,385 (hereinafter, Nakashima) in view of Keeble et al. U.S. Patent No. 6,128,753 (hereinafter, Keeble). The rejection is respectfully traversed for the following reasons.

Currently Amended Independent Claim 1 recites, in part:

analyzing the responses to said status queries according to [[a]] sets of rules to create network audit information, wherein said analyzing comprises determining a ranking of nodes of the plurality of devices, and wherein said ranking comprises separate rankings for a plurality of categories including at least two of: faults, performance, capacity planning, and topology.

Support for the amendment to Claim 1 may be found in the instant specification at least at page 11, line 19 - page 14, line 2.

The rejection concedes that Nakashima does not disclose ranking a plurality of nodes. Applicants respectfully assert that Nakajima does not

teach or suggest the claimed elements of separate rankings for a plurality of categories including at least two of: faults, performance, capacity planning, and topology. Nakashima monitors a network for status changes and converts status messages into a format that is suitable for a recipient station (Abstract). However, Nakashima is silent as to the monitoring allowing a ranking in at least two of the claimed categories. For example, referring to Figure 6 of Nakashima, the status message may indicate a fault (failure occurred). However, the information would not allow a ranking of nodes in any of performance, capacity planning, and topology, as claimed.

Keeble fails to remedy this deficiency in Nakashima in that Keeble is concerned with fault management but is silent as to ranking for performance, capacity planning, and topology, as claimed. Keeble teaches that there are five main faults (col. 5, line 59 - col. 6, line 20; col. 9, lines 40-55). Those faults include disconnection, short circuit, fault battery voltage, earth fault, and low battery voltage. Applicants respectfully assert that monitoring for and ranking based on these faults does not teach or suggest ranking as to performance, capacity planning, or topology, as claimed.

For the foregoing reasons, Claim 1 is respectfully believed to be allowable over the combination of Nakashima and Keeble.

Claims 2-9 and 27-31 are respectfully believed to be allowable based on their respective dependencies from Claim 1.

Currently Amended Independent Claim 20 recites, in part:

c) analyzing responses to said status queries to create network audit information, wherein said analyzing comprises:

determining, for ones of said active nodes, individual rankings for at least two of a plurality of categories comprising: faults, performance, capacity planning, and network configuration; and

determining a combined ranking of said ones of said active nodes for said at least two categories; and

d) reporting said network audit information including said individual rankings and said combined ranking of said active nodes.

For at least the reasons discussed in the response to Claim 1, Applicant respectfully asserts that the combination of Nakashima and Keeble fails to teach or suggest the claimed determining and reporting individual category rankings and a combined category ranking, wherein the categories comprise at least two of: faults, performance, capacity planning, and network configuration.

Currently Amended Independent Claim 24 comprises similar limitations as those discussed in the response to Claim 1. Therefore, the arguments presented in the response to Claim 1 apply to Claim 24.

Claims 11, 21, and 25

Claims 11, 21, and 25 are rejected under 35 U.S.C. §103 as being unpatentable over Nakashima in view of Keeble in further view of Topff et al. U.S. Patent No. 6,026,500 (hereinafter, Topff). The rejection is respectfully traversed for the following reasons.

Claim 11 depends from Claim 1. For reasons discussed in the response to Claim 1, the combination of Nakashima and Keeble fails to teach or suggest the claim limitations in Claim 1 of determining a ranking of nodes of the plurality of devices, wherein said ranking comprises separate rankings for a plurality of categories including at least two of: faults, performance, capacity planning, and topology.

Applicant respectfully asserts that Topff fails to remedy this deficiency in that Topff fails to teach or suggest ranking of nodes of the plurality of devices in any category. As Claim 11 incorporates limitations from Claim 1, Claim 11 is respectfully believed to be patentable over the combination of Nakashima and Topff.

Claims 21 and 25 comprise similar limitations and are thus believed to be allowable.

Claims 12, 14-15, 17-19 and 26

Claims 12, 14-15, and 17-19 and 26 are rejected under 35 U.S.C. §103 as being unpatentable over Nakashima in view of Keeble in further view of Bavant et al. U.S. Patent No. 6,529,473 (hereinafter, Bavant). The rejection is respectfully traversed for the following reasons.

Currently Amended Independent Claim 12 recites, in part:

c) analyzing the responses to said status queries according to rules tailored for said node type to create network audit information comprising a quantitative assessment for each node for at least two categories comprising faults, performance, capacity planning, and network configuration, wherein said quantitative assessment allows determining a ranking of said nodes for either individual ones of said categories or a plurality of said categories; and

d) reporting said network audit information.

For reasons discussed in the response to Claim 1, Nakashima in view of Keeble fails to teach or suggest the claim limitations of a common quantitative assessment for a plurality of categories comprising at least two of: faults, performance, capacity planning, and network configuration, wherein said common quantitative assessment allows determining a ranking of said nodes for either individual ones of said categories or a plurality of said categories. Applicant respectfully asserts that Bavant fails to remedy this deficiency in that Bavant fails to teach or suggest ranking of nodes.

For the foregoing reasons, Claim 12 is respectfully believed to be patentable over the combination of Nakashima, Keeble, and Bavant. Claims 14-15 and 17-19 are respectfully believed to be allowable by virtue of their dependence from Claim 12. Claim 26 is respectfully believed to be allowable as it comprises limitations of “wherein said ranking comprises separate rankings for a plurality of categories including at least two of: faults, performance, capacity planning, and topology” based on its dependency from Claim 24.

#### Claim 13

Claims 13 is rejected under 35 U.S.C. §103 as being unpatentable over Nakashima in view of Keeble in further view of Bavant in still further view of Topff. The rejection is respectfully traversed for the following reasons.

For reasons discussed in the response to Claim 12, Nakashima in view of Keeble in further view of Bavant fails to teach or suggest the claim limitations of a common quantitative assessment for a plurality of categories comprising at least two of: faults, performance, capacity planning, and network configuration, wherein said common quantitative assessment allows determining a ranking of said nodes for either individual ones of said categories or a plurality of said categories. Applicant respectfully asserts that Topff fails to remedy this deficiency. Claim 13

incorporates these limitations from Claim 12 and is believed to be allowable by virtue of its dependency from Claim 12.

Applicants further respectfully assert that the rejection is using hindsight to piece together various pieces of prior art such that only the inventor taught is used against its teacher.

Our analysis begins in the text of section 103 quoted above, with the phrase “at the time the invention was made.” For it is this phrase that guards against entry into the tempting but forbidden zone of hindsight,...when analyzing the patentability of claims pursuant to that section. Measuring a claimed invention against the standard established by section 103 requires the oft-difficult but critical step of casting the mind back to the time of the invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field....Close adherence to this methodology is especially important in the case of less technologically complex inventions, where the very ease with which the invention can be understood may prompt one to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher (*In re Dembiczak*, 50 USPQ 2d 1614, 1616-17 (Fed. Cir. 1999, emphasis added).

For the foregoing reasons, Claim 13 is respectfully believed to be patentable over Nakashima in view Keeble in further view of Bavant in further view of Topff.

#### Claim 16

Claims 16 is rejected under 35 U.S.C. §103 as being unpatentable over Nakashima in view of Keeble in further view of Bavant in still further view of Ouelett US Patent No. 6,584,535 (hereinafter, Ouelett). The rejection is respectfully traversed for the following reasons.

For reasons discussed in the response to Claim 12, Nakashima in view of Keeble in further of Bavant fails to teach or suggest the claim limitations of analyzing the responses to said status queries according to rules tailored for said node type to create network audit information comprising a common quantitative assessment for a plurality of categories comprising at least two of: faults, performance, capacity planning, and network configuration, wherein said common quantitative assessment allows determining a ranking of said nodes for either individual ones of said categories or a plurality of said categories. Applicant respectfully asserts that Ouelett fails to remedy this deficiency. Claim 16 incorporates these limitations from Claim 12 and is believed to be allowable by virtue of its dependency from Claim 12.



For the foregoing reasons, Claim 16 is respectfully believed to be patentable over Nakashima in view of Keeble in further view of Bavant in further view of Ouelett.

Claim 22

Claim 22 is rejected under 35 U.S.C. §103 as being unpatentable over Nakashima in view of Keeble in further view of Schlosser US Patent No. 5,968,122 (hereinafter, Schlosser). The rejection is respectfully traversed for the following reasons.

For reasons discussed in the response to Claim 20, Nakashima and Keeble fails to teach or suggest the claim limitations of “determining, for ones of said active nodes, individual rankings for at least two of a plurality of categories comprising: faults, performance, capacity planning, and network configuration; and determining combined rankings of said ones of said active nodes for said at least two categories.” Applicant respectfully asserts that Schlosser fails to remedy this deficiency. Claim 22 incorporates these limitations from Claim 20 and is believed to be allowable by virtue of its dependency from Claim 20.

For the foregoing reasons, Claim 22 is respectfully believed to be patentable over Nakashima in view of Schlosser.

### Claim 23

Claims 23 is rejected under 35 U.S.C. §103 as being unpatentable over Nakashima in view of Keeble in further view of Official Notice. The rejection is respectfully traversed for the following reasons.

For reasons discussed in the response to Claim 20, Nakashima and Keeble fails to teach or suggest the claim limitations of “determining, for ones of said active nodes, individual rankings for at least two of a plurality of categories comprising: faults, performance, capacity planning, and network configuration; and determining combined rankings of said ones of said active nodes for said at least two categories.” Applicant respectfully asserts that Official Notice fails to remedy this deficiency. Claim 23 incorporates these limitations from Claim 20 and is believed to be allowable by virtue of its dependency from Claim 20.

For the foregoing reasons, Claim 23 is respectfully believed to be patentable over Nakashima in view Keeble in further view of Official Notice.

### NEW CLAIMS

Claims 32-35 have been added. Support for Claims 32-35 may be found in the instant specification at least at page 11, line 19 - page 14, line 2. Claims 32-35 are believed to be allowable over the prior art based on their dependency from Claim 1.

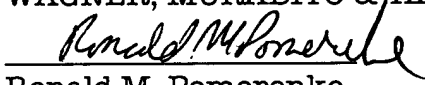
Applicants further respectfully assert that the cited prior art fails to teach or suggest a combined ranking that combines a plurality of categories, as recited in Claims 32-34, in combination with limitations of separate rankings for a plurality of categories, as recited in Claim 1.

Applicants further respectfully assert that the cited prior art fails to teach or suggest providing a report having separate quantitative assessments for system, media, and protocol, as claimed in Claim 35.

## CONCLUSION

In light of the above-listed amendments and remarks, the Applicant respectfully requests allowance of the present Application. Based on the amendments presented above, it is respectfully submitted that Claims 1-26 and 27-35 overcome the objections and rejections of record. Therefore, allowance of Claims 1-26 and 27-35 is respectfully solicited.

Should the Examiner have a question regarding the instant amendment and response, the Applicant invites the Examiner to contact the Applicant's undersigned representative at the below listed telephone number.

Dated: <u>4/11</u> , 2005	Respectfully submitted, WAGNER, MURABITO & HAO LLP  Ronald M. Pomeranke Registration No. 43,009
Address:	WAGNER, MURABITO & HAO LLP Two North Market Street Third Floor San Jose, California 95113
Telephone:	(408) 938-9060 Voice (408) 938-9069 Facsimile